



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: November 29, 2007
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Meeting Date: November 29, 2007

TO: Standing Committee on Planning and Environment

FROM: Chief Licence Inspector

SUBJECT: 1138 Davie Street - The Majestic Restaurant & Lounge Ltd.
Liquor Primary Liquor Licence

RECOMMENDATION

- A. THAT Council, having considered that the majority of area residents and business operators of the community are in favour of the application as determined by neighbourhood notifications, the proximity of residential developments, potential noise impacts and relevant Council policy as outlined in the Administrative Report dated November 29, 2007, entitled "1138 Davie Street - The Majestic Restaurant & Lounge Ltd - Liquor Primary Liquor Licence", endorse the application by The Majestic Restaurant & Lounge Ltd for a Liquor Primary liquor licence (Liquor Establishment Class 3) at 1138 Davie Street subject to:
- i. A maximum total capacity of 160 persons (indoor) and maximum capacity of 30 persons (outdoor patio);
 - ii. Standard Hours of operation limited to 11:00 a.m. to 2:00 a.m., seven days a week; or
Extended Hours of operation limited to 9:00 a.m. to 3:00 a.m., seven days a week;
 - iii. A Time-limited Development Permit;
 - iv. A signed Good Neighbour Agreement prior to business licence issuance;
 - v. Adherence to clean air practices; and
 - vi. The surrendering of the existing Food Primary liquor licence at the time of issuance of the Liquor Primary liquor licence.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

Council policy requires new Liquor Primary liquor licences to be subject to a Time-limited Development Permit, Good Neighbour Agreement, and public consultation.

On May 16, 2006, Council enacted amendments to the Business Premises Regulation of Hours By-law that implements the Hours of Liquor Service Policy for Liquor Primary establishments into by-law regulation.

On July 14, 2005, Council approved amendments to the Licence By-law to provide new definitions for businesses in which the primary function is the sale and consumption of alcohol on the premises (Standard Hours Liquor Establishment Classes 1 - 7) and endorsed policy and guidelines relating to their size and location.

On November 14, 2004, Council adopted the Hours of Liquor Service Policy that established a new model for regulating hours of liquor service for Liquor Primary establishments, based on an area approach and incorporating a two-tiered licensing system and impact reduction measures.

SUMMARY

The Majestic Restaurant & Bar Ltd (doing business as Majestic Restaurant & Lounge), located at 1138 Davie Street, is seeking a Council resolution endorsing their application for a 160 persons (indoor) total capacity and a 30 persons (outdoor patio) Liquor Primary liquor licence (Liquor Establishment Class 3) which includes hours of licensing of 9:00 a.m. to 3:00 a.m., seven days a week.

The request from The Majestic Restaurant & Bar Ltd is consistent with Council's liquor policy for the area. The establishment is an existing Restaurant Class 1 currently with a Food Primary liquor licence. The applicant seeks to replace the Food Primary liquor licence with a new Liquor Primary liquor licence and will continue to provide food service. The applicant has established The Majestic to be a showcase entertainment venue and intends on continuing the existing operation but under a Liquor Primary liquor licence rather than a Food Primary liquor licence. The outdoor patio which was approved under Development Permit No. DE411319, will continue to operate under the conditions outlined on this permit.

Response to the notification generated comments both for and against the application. Of the 500 notices circulated, a total of 4 responses were received from area residents (1 in support and 3 in opposition). Respondent in favour felt the proposal would be a welcomed addition to the area which would provide an additional entertainment choice on Davie Street. The respondents opposed are concerned about the potential for increased noise, the concentration of liquor establishments in the area and the number of residential buildings surrounding the area.

Staff is recommending Council endorse the applicant's request with the conditions noted.

PURPOSE

The Majestic Restaurant & Lounge is requesting a Council resolution endorsing the application for a 190 seat (160 seats inside, 30 outdoor patio seats) Liquor Primary liquor licence Liquor Establishment Class 3 at 1138 Davie Street.

BACKGROUND

Site History

The proposed location of this Liquor Primary liquor licence is in an existing Restaurant Class 1 situated in the Downtown - Primarily Commercial Area. The applicant has been operating at this location since May 2007 catering to the diverse population of the west end community and the broader lower mainland gay community. No complaints have been received related to the management of this business.

The applicant currently operates two other existing liquor primary licensed establishments on Davie Street; The PumpJack Pub (1167 Davie Street) and the Fountainhead Pub (1025 Davie Street).

Application

The applicant is requesting a Council resolution endorsing their application for a 160 persons (indoor) and 30 persons (outdoor patio) total capacity Liquor Primary liquor licence (Liquor Establishment Class 3) with hours of licensing between 9:00 a.m. to 3:00 a.m., seven days a week. (The outdoor patio will continue to operate under the conditions outlined on Development Permit No. DE411319). This approval would result in the cancellation of the existing Food Primary liquor licence, which has hours of licensing from 9:00 a.m. to 1:00 a.m., Monday to Saturday, and 9:00 a.m. to 12:00 a.m. on Sunday. The applicant proposes to operate as a liquor primary show lounge and catering to the diversity of the west end community. The venue will provide an eclectic combination of music, theatre, dance and cultural entertainment and will be a very unique venue for Vancouver.

Liquor Control and Licensing Branch (LCLB) Regulations and Policies

Branch regulations allow the licensing of liquor establishments with a Liquor Primary liquor licence and liquor service between the hours of 9:00 a.m. to 4:00 a.m., seven days a week. The liquor licence capacity for a new establishment is based on the building capacity for the premise as determined by the local authority. Any new liquor licence application is subject to local government support.

Area Surrounding Premises

The subject site is located in the C-5 (Commercial West End) zoning district. The surrounding area is a mixture of residential, hotel, retail, restaurants, office, recreation uses and other commercial uses. There are a significant number of residential apartments in the area (refer to Appendix A). The nearest residential buildings are located south across the lane.

There are 2 Liquor Establishment Class 1 (105 seats total), 2 Liquor Establishment Class 2 (266 seats total) and approximately 19 licensed restaurants within the 500 ft survey area.

There are a total seven Liquor Primary liquor licences in the Davie Village area consisting of 1014 seats.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 500 notices in the survey area (see Appendix A). A site sign was erected advising the community of the application and where to send concerns or comments. A total of 4 responses were received from residents within the notification area. The responses consisted of 3 comments in opposition (1 email, 1 letter and 1 telephone call), and 1 letter in support of the application.

Concerns were expressed over the impact this type of establishment may have on the neighbourhood such as increased noise levels for the area residents. It was also noted there are already enough liquor establishments in the area with respect to Davie Village. The response in support of the application indicated how the establishment would be a welcomed addition to the area which would provide an additional entertainment choice on Davie Street.

DISCUSSION

Policy

Council recently approved new policy regarding venue size and location. The policy set up a number of liquor establishment business licence classifications and basic location criteria (100 metres from the same class of establishment) for new liquor applications.

The applicant's request is for a Liquor Establishment Class 3. The closest Liquor Establishment Class 3 is greater than 100 metres away (195 seat - Numbers Cabaret at 1042 Davie Street).

Hours of Operation

The applicant is requesting hours of operation within the parameters of the Extended Hours of Operation permitted in the Downtown - Primarily Commercial Area. Maximum permitted extended hours for the area are 9:00 a.m. to 3 a.m., seven days a week. The applicant has requested 9:00 a.m. to 3:00 a.m., seven days a week. These extended hours would only apply to the interior seating area. The patio hours are regulated by the conditions of the Development Permit DE411319.

The applicant is aware that the Extended Hours Liquor Establishment Class of business licence is contingent on continued compliance with additional by-law regulations.

Affirmative Proposal Aspects

Small liquor establishments of this size generally do not create significant negative issues for area residents and business operators. The application complies with Council's liquor policy for venue size and location, and hours of service.

Food service will remain a component of the business which will provide a mitigating factor to the liquor service and consumption. Staff acknowledges that impacts will likely remain minimal from the current levels and that the new Liquor Establishment Class 3 business licence has significantly more operating regulations than the current Restaurant business.

The applicant will be required to obtain a Time-limited Development Permit as per Council policy for new liquor establishments. This will provide adequate controls to ensure the land use or business operations remain compatible with the surrounding community.

Negative Proposal Aspects

Approval of the establishment may result in increased street noise and other related nuisance issues for area residents and business operators. Negative synergy may result from the addition of another Liquor Primary establishment in the area.

The extended hour of liquor service may exacerbate the noise and nuisance activity in the neighbourhood during the week.

COMMENTS

The Police Department has reviewed the application and will not be taking any position on this request, subject to the public response to the application.

The Vancouver Fire Department has reviewed the application and comments that the applicant to insure the new application must be reviewed by Fire prior to license issuance. For a liquor primary license the exit capacity is doubled.

The Development Services Department has reviewed the application and notes the site is zoned C-5.

The existing space is approved as Restaurant Class 1. The proposed license change would cause this establishment to be classified as a Restaurant class 2 under the Zoning and Development By-law. Restaurant class 2 is a conditionally allowable use within the C-5 District Schedule; however, this change will require Development Permit approval.

As part of the review, processing staff would include assessment of the anticipated impacts on nearby sites and for compliance with the Zoning and Development By-law having particular regard to parking, vehicle circulation, compatibility with surrounding uses and noise control.

The Environmental Health Department has reviewed the application and comments that the applicant is advised of the recent amendments to the Health By-law No. 9535 which restricts smoking in all customer service areas and away from all entrances, windows and incoming air vents.

The applicant shall provide an acoustic report that demonstrates the premises complies with Noise Control By-law No. 6555.

The Central Area Planning Department has reviewed the application and support the proposed liquor primary license and the proposed hours in this location for the following reasons:

- it reflects the intent of the West End Liquor Licensing Policy, approved by Council, to permit an additional 5 liquor primary licenses in the Davie Village (to date, four have been approved) primarily serving a local clientele;
- it reflects the provisions of the License By-law on the spacing of premises with primary liquor licenses;
- it also reflects Council's policy regarding hours for the Davie Village; and

-the premises are located in a primarily commercial area where there is diverse mix of shopping, restaurants and bars."

The Housing Centre has reviewed the application and support the proposed application subject to the public response.

The Social Planning Department has no comments at this time.

Comments to Satisfy LCLB Resolution Requirements:

Location: as noted previously.

Proximity of the establishment to other social or recreational and public buildings: Staff is not concerned about the proximity of this establishment to social, recreational or public buildings.

Person capacity and hours of operation: as outlined above.

Market Analysis: The City of Vancouver has no authority to regulate an operator's clientele/target market. As a result, commenting or basing a decision on Market Analysis is an unproductive use of staff time.

Traffic, noise, parking and zoning: Review, compliance and mitigation of these issues will be conducted during the Development Permit application process, provided Council supports the application and allows it to proceed to the permitting system.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

There is a significant amount of residential in close proximity to the proposed site, and community impact issues may be compounded by the number of liquor premises in the area. However, this size of liquor establishment generally does not raise major concerns, and the time-limited development permit requirement should ensure compatibility with the adjacent community and residents.

As a result of the above and the application compliance with the new Venue Size and Location policy, Staff are recommending Council endorse the applicant's request for a 190 seat Liquor Primary (Liquor Establishment Class 3) liquor licence subject to the conditions outlined in Recommendation A.

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